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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

NORTHERN PLAINS RESOURCE
COUNCIL, BOLD ALLIANCE, CENTER
FOR BIOLOGICAL DIVERSITY,
FRIENDS OF THE EARTH, NATURAL
RESOURCES DEFENSE COUNCIL,
INC., and SIERRA CLUB,

Plaintiffs,

vs.

THOMAS A. SHANNON, JR., in his
Official Capacity as Under Secretary of
State for Political Affairs, UNITED
STATES DEPARTMENT OF STATE,
RYAN ZINKE, in his official
Capacity as Secretary of the Interior;
UNITED STATES DEPARTMENT OF
THE INTERIOR; and BUREAU OF
LAND MANAGEMENT,

Defendants,

CV 17-31-GF-BMM

**SUPPLEMENTAL MOTION
TO DISMISS BY
TRANSCANADA KEYSTONE
PIPELINE, LP AND
TRANSCANADA
CORPORATION**

and

TRANSCANADA KEYSTONE
PIPELINE, LP and TRANSCANADA
CORPORATION,

Defendant-Intervenors.

TransCanada Keystone Pipeline, LP and TransCanada Corporation (collectively, “TransCanada”), Defendant-Intervenors, hereby move to dismiss the fifth claim presented in Plaintiffs’¹ Third Amended Complaint for Declaratory and Injunctive Relief. (ECF No. 58). Previously, TransCanada filed a motion to dismiss all claims presented in Plaintiffs’ original complaint. (ECF Nos. 43, 44).

As set forth in TransCanada’s accompanying Memorandum in Support, Plaintiffs’ fifth claim for relief against Federal Defendants should be dismissed. This Administrative Procedure Act, 5 U.S.C. §§ 701-706, and Endangered Species Act claim, 16 U.S.C. §§ 1531 *et seq.*, against Federal Defendants should be dismissed pursuant to Rule 12(b)(1), because there is no waiver of sovereign immunity, and Rule 12(b)(6), for failure to state a claim.

¹ Northern Plains Resource Council, Bold Alliance, Center for Biological Diversity, Friends of the Earth, Natural Resources Defense Council, Inc., and Sierra Club (collectively, “Plaintiffs”).

For the foregoing reasons and the grounds set forth in the accompanying memorandum as well as the motion and memorandum filed earlier (ECF Nos. 43, 44), TransCanada moves to dismiss Plaintiffs' claims in their entirety.

Pursuant to Local Rule 7.1(c)(1), counsel for TransCanada contacted counsel for the parties regarding the filing of this motion, and Plaintiffs oppose the motion.

Dated this 18th day of August, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following counsel of record, by the means designated below, this 18th day of August, 2017:

<u>1 - 9</u>	CM/ECF
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